

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RICK D. SENFT,

Plaintiff,

v.

LINKEDIN CORPORATION,

Defendant.

No. 2:12-cv-_____

ELECTRONICALLY FILED

**RICK D. SENFT’S COMPLAINT
IN THE NATURE OF EQUITABLE BILL OF DISCOVERY**

Plaintiff, Rick D. Senft (“Plaintiff” or “Mr. Senft”), by his attorneys, Fox Rothschild LLP, files the following Complaint in the Nature of Equitable Bill of Discovery (“Complaint”), stating as follows:

NATURE OF THE ACTION

1. Plaintiff Rick D. Senft seeks to discover the identity of the person or persons who fraudulently created a LinkedIn profile in Mr. Senft’s name identifying his mobile phone number and private home email address.

2. Defendant LinkedIn Corporation (“Defendant” or “LinkedIn”) will not release information relating to the creation of this fraudulent account without valid legal process.

3. This action in the nature of an equitable bill of discovery, and pursuant to Federal Rule of Civil Procedure 34(c), seeks production of this information so that Mr. Senft may pursue legal action against the person or persons who created the fraudulent account under, *inter alia*, the Computer Fraud and Abuse Act, 18 U.S.C. §1030 *et seq.*

PARTIES

4. Plaintiff Rick D. Senft is an adult individual residing in Cranberry Township, Pennsylvania.

5. Defendant LinkedIn Corporation is a California corporation with a principal place of business at 2029 Stierlin Ct. #200, Mountain View, California, 94043-4684. LinkedIn maintains a social networking website for people in professional occupations, including people located in western Pennsylvania.

JURISDICTION AND VENUE

6. The Court has federal question jurisdiction over Mr. Senft's claim under the Computer Fraud and Abuse Act, 18 U.S.C. §1030 *et seq.*

7. Venue exists in this District pursuant to 28 U.S.C. §§ 1391(b)(2) based on the fact that a substantial part of the events or omissions giving rise to the claims alleged herein occurred in this District.

FACTUAL ALLEGATIONS

8. Mr. Senft is a senior executive at a major non-profit organization based in Allegheny County, Pennsylvania.

9. Due to his executive position, Mr. Senft is careful to keep his personal contact information private, including his mobile phone number and his home email address.

10. On or about October 4, 2012, Mr. Senft discovered that an account had been opened in his name on LinkedIn (the "Account").

11. Mr. Senft did not create or authorize the Account, and the creator of the Account is unknown to him.

12. The Account contained Mr. Senft's private cell phone number and private home email address. A true and correct copy of the Account, showing this information, is attached

hereto as Exhibit A. While Exhibit A has been redacted to protect Mr. Senft's private information, an un-redacted copy of Exhibit A has been served with this Complaint on LinkedIn.

13. The Account was posted in violation of LinkedIn's User Agreement, which requires, *inter alia*, that a person creating an account "represent and warrant that you are entitled to submit the information and that the information is [...] not confidential."

14. Mr. Senft notified LinkedIn of the fraudulent Account, and asked that it be taken down.

15. LinkedIn investigated the Account, "determined that it was in fact fraudulent in nature," and closed the Account. *See* Email Chain of October 10-11, 2012, at p. 2, a true and correct copy of which is attached hereto as Exhibit B.

16. However, LinkedIn would not provide information identifying the person or persons who created the Account, claiming that "LinkedIn will only provide such information pursuant to valid legal process." Exhibit B, Email Chain of October 10-11, 2012, at p. 1.

17. Upon receipt of the information identifying the person or persons who created the Account, Mr. Senft intends to pursue legal action against the person or persons who created the fraudulent Account under, *inter alia*, Section 1030(a)(4) of the Computer Fraud and Abuse Act, 18 U.S.C. §1030 *et seq.*

COUNT I
IN THE NATURE OF EQUITABLE BILL OF DISCOVERY

18. Plaintiff incorporates by reference as if set forth in full the allegations contained in Paragraphs 1-17 above.

19. Without information concerning the identity of the person or persons who created the fraudulent Account, Mr. Senft cannot pursue legal action.

20. Information concerning the identity of the person or persons who created the fraudulent Account is solely in the possession of LinkedIn, which refuses to divulge that information without legal process.

21. Mr. Senft is entitled to seek that information from LinkedIn in an action in the nature of an equitable bill of discovery pursuant to Federal Rule of Civil Procedure 34(c) ("Rule 34(c)") and the 1946 and 1991 Advisory Committee Notes to Rule 34(c).

WHEREFORE, for the reasons stated herein, Plaintiff Rick D. Senft seeks to obtain discovery from Defendant LinkedIn Corporation regarding the identity of the person or persons who created the fraudulent account in the name of Rick D. Senft.

Respectfully submitted,

FOX ROTHSCHILD LLP

Date: December 27, 2012

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